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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,613	05/10/2001	Dietrich Reichwein	11004/005	5882

27879 7590 08/25/2003

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EXAMINER

WEBER, JON P

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 08/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,613

Applicant(s)

REICHWEIN ET AL.

Examiner

Jon P Weber, Ph.D.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of the Claims

Claims 1-40 have been presented for examination.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8 and 29-32, drawn to an apparatus for capturing biological information consisting of a sensor for electromagnetic longitudinal waves and a method of use therefore.

Group II, claim(s) 9 and 12, drawn to an apparatus that captures biological information consisting of a sensor and an integrator.

Group III, claim(s) 10-12, drawn to an apparatus that captures biological information consisting of a sensor, an integrator and a decoder.

Group IV, claim(s) 13, drawn to an apparatus that captures biological information consisting of a sensor, an integrator, a decoder and a recorder.

Group V, claim(s) 14-15, 17-28 drawn to an apparatus for controlling biological systems with a device for generating scalar electromagnetic fields.

Group VI, claim(s) 16-28, drawn to apparatus for controlling biological systems with a device for generating scalar electromagnetic fields combined with a device that captures biological information consisting of a sensor, an integrator, a decoder and a recorder.

Group VII, claim(s) 33, drawn to a method of capturing biological information with a sensor of electromagnetic longitudinal waves and generating a data signal therefrom.

Group VIII, claim(s) 34-35, drawn to a method of capturing biological information with a sensor of electromagnetic longitudinal waves, generating a data signal therefrom and generating a decoded signal from the data signal.

Group IX, claim(s) 36, drawn to capturing biological information with a sensor of electromagnetic longitudinal waves, generating a data signal therefrom and generating a decoded signal from the data signal and finally recording all the various signals.

Group X, claim(s) 37-39, drawn to a method for controlling biological systems with a device for generating scalar electromagnetic fields, which may be generated by recorded signals from a device that captures biological information with a sensor of electromagnetic longitudinal waves.

Group XI, claim(s) 40, drawn to device(s) or method(s) or both – this claim is too confusing to specify what is being claimed.

The inventions listed as Groups I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The alleged special technical feature is biological information in cells and organisms that consists of electromagnetic longitudinal waves. Allegedly these waves can be collected, and used

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to generate an electromagnetic signal. The resulting signal is decoded and recorded. Allegedly the decoded and recorded signal is then used to control an electromagnetic wave generator, which then controls the cells and organisms. There does not appear to be any scientific basis or reason to expect that 1) such electromagnetic longitudinal waves are generated by cells or organisms, 2) that such waves can be collected, or 3) that signals generated from these waves can be used to control cellular processes (it is assumed that if such fields existed and were collected they could be used to control some field generating device). The disclosure appears to be purely speculative for each of these major premises. There are no working examples or evidences presented that the special technical feature is a real item. Hence, the alleged special technical feature is not deemed to be special within the meaning of Rule 13.2.

The many "dependent" claims are treated as independent claims inasmuch as the claims recite, "consisting of", closed language that precludes adding additional components and therefore corresponding to different devices. Each of the different devices can serve a different purpose.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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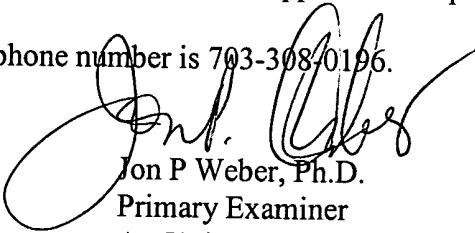
Applicant is also advised that the claims as presented are replete with improper multiple dependencies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon P Weber, Ph.D. whose telephone number is 703-308-4015.

The examiner can normally be reached on daily, off 1st Fri, 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Jon P Weber, Ph.D.
Primary Examiner
Art Unit 1651

JPW